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CAMBRIDGE LICENSE COMMISSION

License Commission General Hearing
Decision Hearing

in the

Michael J. Lombardi Building
Basement Conference Room
831 Massachusetts Avenue
Cambridge, Massachusetts

Tuesday, December 11, 2012

3:15 p.m.

Michael P. Gardner, Chairman
Assistant Chief Gerald E. Mahoney, Fire Department
Commissioner Robert C. Haas, Police Department
Superintendent Christopher Burke, Police Department

Elizabeth Y. Lint, Executive Director



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SPEAKER

PAGE

SPEAKER ON BEHALF OF EVEREST CROSSING, LLC:

Sean Hope, Esquire

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1 P R O C E E D I N G S

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3 ELIZABETH LINT: It is the License
4 Commission decision making hearing December 11,
5 2012. It is 3:15 p.m. We are at the Michael J.
6 Lombardi Building, 831 Mass Ave., basement
7 conference room.

8 Before you are the Commissioners:
9 Chairman Michael Gardner, Commissioner Robert
10 Haas, Superintendent Chris Burke, and Assistant
11 Chief Gerry Mahoney.

12 The only matters we have left for
13 decision were a reconsideration of Everett
14 Crossing, LLC, from the November 8th hearing, and
15 then a decision on Everett Crossing from the
16 November 20th hearing.

17 MICHAEL GARDNER: Thank you, Ms. Lint.

18 And for the record, in addition to myself
19 and Commissioner Haas, we have present with us
20 Superintendent Christopher Burke from the police
21 department, and Assistant Chief Gerard Mahoney
22 from the fire department.

23 Commissioner Haas and I were present at
24 the hearing at which the matters of October 20th

1 were heard. Let's see.

2 ELIZABETH LINT: November 8th.

3 MICHAEL GARDNER: Commissioner Haas was
4 at the November 8th hearing --

5 ELIZABETH LINT: Correct.

6 MICHAEL GARDNER: -- which is the one
7 where the matters of October 6th were heard, I
8 believe. And then Superintendent Burke was
9 present at the November 20th hearing.

10 ROBERT HAAS: Correct.

11 CHRISTOPHER BURKE: Correct.

12 GERARD MAHONEY: As was I.

13 MICHAEL GARDNER: Along with Assistant
14 Chief Mahoney, when the October 20th issue was
15 discussed.

16 ELIZABETH LINT: That's correct.

17 MICHAEL GARDNER: So at the November 8th
18 hearing, we heard, as I recall, extensive
19 testimony about a series of ongoing problems at
20 OM, both with respect to overcrowding, fights
21 between patrons, I think, both on premises and
22 then fights after out in the street, with people
23 who were believed to have been patrons of OM.

24 And I think that it is fair to say we did

1 not have any conclusive proof established at that
2 hearing of either overserving or verifiable
3 overcrowding, except with respect to the incident
4 of, I believe it was October 6th, although it
5 might be October 5th into the morning of
6 October 6th, when the investigator, Andrea Boyer,
7 determined that the security staff had not kept a
8 count of the number of people on the second
9 level, and professed to not even know of the need
10 to maintain a separate count at the second level,
11 and Ms. Boyer's determining there was substantial
12 overcrowding at the second level.

13 ELIZABETH LINT: That was on the 5th.

14 MICHAEL GARDNER: That was October 5th?

15 ELIZABETH LINT: 5th.

16 When they went back on the 6th, there
17 were a minimal number of patrons in the club.

18 MICHAEL GARDNER: Thank you for
19 clarifying that.

20 At that point, the Commissioners issued
21 some discipline which had not been -- had not
22 taken effect by the time we had the subsequent
23 hearing on November 20th. On November 20th, we
24 had had a separate incident of overcrowding

1 alleged to have occurred on October the 20th,
2 when the manager on the premises had no actual
3 reliable count. He had not been keeping count.
4 He did not have a clicker. He made the
5 representation to the police and fire staff who
6 were on the scene that he was at capacity and was
7 not letting new patrons in, but he didn't have
8 verification for his records that he was at
9 capacity and not over.

10 As I recall, he was asked to do a
11 walk-through and come back with a count. He did
12 that. He came back with a count that police and
13 fire officials thought was a substantial
14 undercount. They ordered that no new patrons be
15 allowed in at 1:00 a.m., and that the premises be
16 closed and people asked to leave at 1:30.

17 They did their own head count of the
18 people who left at 1:30, and there was
19 substantial overcrowding determined at that
20 point, not even taking into account people who
21 had left between 1:00 and 1:30.

22 I just wonder if any of the participants
23 in either of those hearings have any more
24 information to add with my summary of what the

1 evidence was on the November 8th and
2 November 20th hearings?

3 ROBERT HAAS: Mr. Chair, just a couple
4 other things that came up in the November 8th
5 hearing.

6 One, I know on two of the instances
7 officers were forced to take, on each of the two
8 instances that they relayed to us, persons into
9 protective custody who were intoxicated coming
10 out of the OM.

11 I know that the fire chief had made some
12 queries about the crowd control managers
13 designated on those nights. Mr. Chowdhury made
14 representations to this body that he would give
15 us information as to who the crowd control
16 manager was, but that he couldn't provide that
17 information for the night of the event.

18 I know there were representations made
19 that they felt that the establishment was
20 overcrowded, but couldn't come up with any
21 specific numbers, other than the fact that there
22 was a large number of people coming out of the
23 restaurant, which were estimates of at least
24 three or four hundred. I recognize the fact,

1 though, that without an actual number we can't
2 use that to establish an overcrowding situation.

3 And lastly, I think that my recollection
4 was -- which was a little bit troubling -- was
5 that at 1:00 or 1:30 in the evening you had
6 upwards of 150 to 200 people standing outside the
7 restaurant waiting to get in, close to or
8 approximately at closing time, not to mention the
9 disturbances that were occurring over a series of
10 nights involving patrons from the OM restaurant.

11 MICHAEL GARDNER: Do either the police or
12 chief representatives recollect anything else
13 that you think is worth mentioning at this time?

14 GERARD MAHONEY: No. I think my
15 recollection from that night, November 20th, your
16 summary is pretty accurate.

17 MICHAEL GARDNER: Thank you,
18 Commissioner, for supplementing the record with
19 your memory.

20 So I know we normally don't take
21 additional testimony at these hearings, and I am
22 not opening the floor up for public comments.
23 But I see that Mr. Hope, who is counsel for the
24 establishment and was present at the

1 November 20th hearing, although not at the
2 November 8th hearing, I see that Attorney Hope is
3 here. And I am going to ask Attorney Hope to
4 come forward, identifying himself for the record,
5 and just ask you, sir, if from your point of view
6 the summary of the evidence that I have outlined
7 is correct.

8 MR. SEAN HOPE: Good evening,
9 Mr. Chairman, members of the Commission.

10 For the record, Attorney Sean Hope, Hope
11 Legal Law Offices in Cambridge. I am here today
12 on behalf of the owner, Solmon Chowdhury. He
13 could not be here today. He had a business
14 emergency that he needed to attend to.

15 But knowing that this is a decision
16 hearing and believing that public comment was
17 closed, I was really here to take reports.

18 I would only say, in terms of the summary
19 of the hearing that I was at on November 20th, I
20 would only say that the record would probably
21 most accurately reflect. I would just hesitate
22 to give a summary. Obviously, I am representing
23 the opposite side and, you know, as I look at the
24 details, I would think that the reports

1 themselves are probably the best indication of
2 what happened, instead of any summary I could
3 give or the Chairman could give.

4 But most importantly, we are here tonight
5 to find out what the decision is from the
6 Commission. And, knowing that any decision
7 rendered by the Commission, given the business
8 difficulties that OM has been dealing with, some
9 of which have been made known to the
10 Commission -- and I don't want to speak to those
11 specifics -- but the challenges of operating this
12 business, just that that would be also taken into
13 account in terms of whatever decision the
14 Commission decides to render.

15 But if there are any specific questions
16 you have about the record, I could answer those.

17 MICHAEL GARDNER: That is all right.
18 Thank you very much, Mr. Hope.

19 So among the things that were most
20 troubling to me in terms of what we found were
21 that Mr. Chowdhury was clearly on notice by
22 October 5th that he had a serious management
23 problem with respect to on-the-floor management
24 of the operation, when it was clear that his

1 security staff had not been trained in some of
2 the fundamental baseline requirements established
3 by the Commission for the safe and legal
4 operation of the establishment; and that having
5 learned that, he took no apparent effective
6 action to put additional management controls in
7 place to make sure that overcrowding issue did
8 not occur again.

9 And in fact, within a couple of weeks of
10 his being on notice, we had arguably an even more
11 serious overcrowding question on October the
12 20th, and an even more inexcusable abrogation of
13 responsibility by the manager who was there that
14 evening, someone to whom Mr. Chowdhury had
15 entrusted the management of the operation for a
16 number of months, who was admittedly not even
17 keeping a count of the number of patrons who had
18 been allowed in.

19 My memory is that some of the explanation
20 for that, which came from the ownership of the
21 establishment, was that that person, who has
22 since been released, had a conflict of interest,
23 perhaps because he was a promoter of events as
24 well as the manager on the floor.

1 But I guess my own sense about that is I
2 am not sure I necessarily see there was
3 particularly any more conflict of interest in
4 that instance than the owners themselves. There
5 is always a tension between profitability or
6 gross receipts and a number of people who are
7 present in the establishment. So to the extent
8 that there is a -- that anybody has got a
9 conflict of interest with regard to maintaining
10 occupancy limits, it seems to me the management
11 has just as much of a conflict there as a
12 promoter might have with respect to, if you can
13 get more people in, you will probably do more
14 business.

15 And as we do entrust to the management,
16 however they chose to organize or delegate
17 authority, we entrusted to the management the
18 obligation to maintain the occupancy limits.

19 The original decision of the November 8th
20 hearing, as I recall it -- if you could just
21 verify, Ms. Lint -- was that we imposed a 10-day
22 suspension, 5 days of which will be held in
23 abeyance for a certain period and, presuming no
24 further violations, would be deemed served. In

1 addition, we voted a rollback of hours to
2 1:00 a.m. from 2:00 a.m., to be reviewed after
3 six months.

4 Is that a fair approximation of what we
5 did?

6 ELIZABETH LINT: And there was mention of
7 the elimination of the alternate floor plan, but
8 it wasn't clear as to -- I think the way it was
9 said at the hearing was that we would eliminate
10 the open floor plan but not for the correct
11 floor, because only one floor has it.

12 MICHAEL GARDNER: So if I can ask you to
13 refresh our memories on that, Ms. Lint. The
14 alternate floor plan allows that, after a certain
15 time of night, to essentially move tables which
16 are used for dining out to create a larger space
17 for, presumably, dancing?

18 ELIZABETH LINT: Correct.

19 MICHAEL GARDNER: And that alternate
20 floor plan under this license is found on the
21 first floor.

22 ELIZABETH LINT: I believe it is on the
23 first floor.

24 MICHAEL GARDNER: And what we had thought

1 was it was on the second floor, or at least that
2 was the conversation on November the 8th.

3 ELIZABETH LINT: I believe so.

4 MICHAEL GARDNER: I will ask Mr. Hope.

5 If you have got any information about
6 that that you want to make representations to the
7 Commission, fine; if you don't, that is fine.

8 (No answer.)

9 MICHAEL GARDNER: Mr. Hope shook his head
10 no, so he doesn't.

11 Any other comments or observations from
12 any of the Commissioners or all of the
13 Commissioners who have been present at these
14 hearings?

15 ELIZABETH LINT: Mr. Chowdhury had made
16 representation that the reason that the license
17 was at capacity, that it was, because that is
18 what he purchased, but that he could have had
19 more space.

20 And I do have the certificate of
21 occupancy from ISD, and the numbers that they
22 allow are just what we he has, not that it could
23 have been larger.

24 MICHAEL GARDNER: So if I understand it,

1 you have looked at the certificate of occupancy
2 from the inspectional services department. And
3 they have listed that at, what, 194?

4 ELIZABETH LINT: The allowable load is
5 118 on the first floor, 76 on the second floor,
6 and then the patio.

7 MICHAEL GARDNER: So any representation
8 that the numbers are artificially limited by the
9 license, but not by the physical capacity, appear
10 to be incorrect?

11 ELIZABETH LINT: It may have been true at
12 the outset, because it was a smaller license and
13 he was able to purchase more seats. But at this
14 time, I believe it is as far as it can go.

15 MICHAEL GARDNER: Thank you.

16 And I have heard representations made
17 that actually the second floor space is bigger,
18 so you could put more people up there. But I am
19 wondering if the limitation in fact has to do
20 with the physical structure safety for collapse.

21 ELIZABETH LINT: I would defer to
22 Assistant Chief Mahoney on that.

23 GERARD MAHONEY: The limits to the number
24 of the upper floor is less than the --

1 ELIZABETH LINT: Yes.

2 GERARD MAHONEY: It could be constraint
3 of exitway.

4 MICHAEL GARDNER: Okay.

5 Thank you for that.

6 GERARD MAHONEY: I would say it is
7 perhaps more that, as opposed to weight.

8 MICHAEL GARDNER: More likely that. All
9 right.

10 ELIZABETH LINT: And configuration.

11 MICHAEL GARDNER: Anything else?

12 ELIZABETH LINT: I would just add, I will
13 confirm which has the alternate floor plan.

14 GERARD MAHONEY: Mr. Chairman, the only
15 comment that I would like to make is that the
16 issue of overcrowding in establishments such as
17 this is something that is taken quite obviously,
18 not only by this body, but by the fire department
19 as well. History is replete with examples of
20 overcrowding in establishments such as these that
21 have tragic consequences. It does not even have
22 to be, perhaps, a fire. There was a case a
23 couple of years ago in Chicago where there was
24 just a fight broke out, and in everybody's haste

1 to leave the establishment, a couple people, if
2 memory serves correctly, were stomped and
3 trampled to death.

4 So I just want that on the record, that
5 overcrowding is something very serious.

6 ROBERT HAAS: Mr. Chair, just to kind of
7 augment the Assistant Chief, we had testimony as
8 to the -- especially from Andrea Boyer and the
9 two detectives who came in here, that they were
10 actually pressed up against the windows on the
11 second floor; and that, at one point, we also had
12 some testimony that people were on the stairway,
13 and nobody could possibly get up and down the
14 stairway if they needed to evacuate the premises.

15 I think there have been a couple
16 different scenarios presented to us on the
17 incidents that were brought before our attention
18 that suggested to us that there were some serious
19 safety concerns with respect to the configuration
20 of the restaurant and how it is being operated.

21 The other thing I want to mention was the
22 notion about the kitchen. We had some concerns
23 on the early hour which the kitchen was closed,
24 in terms of actually changing its mode of

1 operation from a restaurant/nightclub to purely a
2 nightclub.

3 MICHAEL GARDNER: Well, I have thought a
4 fair amount about the seriousness of these
5 violations and their repetition, particularly on
6 October 20th, when it appears that, after having
7 had explicit tangible and palpable notice of
8 security and management deficiencies in the
9 operation on October the 5th, Mr. Chowdhury took
10 no effective steps to insure that those problems
11 were not repeated.

12 Ms. Lint, we had some dispute at, I
13 think, the November 8th hearing as to what the
14 disciplinary history was and how many incidents
15 there had been. I think that the dispute was
16 whether there was two or three and whether or not
17 one of them was -- or two of them were actually
18 the same incident.

19 ELIZABETH LINT: I believe that is
20 correct.

21 MICHAEL GARDNER: That two of them were
22 the same incident?

23 ELIZABETH LINT: Yes.

24 MICHAEL GARDNER: But we have had some

1 suspensions of license already?

2 ELIZABETH LINT: None that were served.

3 MICHAEL GARDNER: In the sense that what
4 happened? They were held in abeyance?

5 ELIZABETH LINT: Yes.

6 MICHAEL GARDNER: I will make a motion to
7 modify the decision made on the 8th and deferred
8 on the 20th of November to suspend the operation
9 of the license for five days total, to rescind
10 the authority for an alternate floor plan on
11 either the first or second -- but believing it to
12 be the first -- and to roll back the hours from
13 2:00 a.m. to 1:00 a.m., but to hold the effective
14 date of that decision in abeyance for up to
15 six months; but with notice to the owner that,
16 should there be any further violations of any of
17 the regulations of the License Commission with
18 respect to that premises, that the rollback in
19 hours would take effect upon the Commission's
20 finding there were, in fact, such violations.

21 ELIZABETH LINT: Just to clarify, is it
22 just the hours that you are holding in abeyance,
23 or the entire --

24 MICHAEL GARDNER: No. Just rollback of

1 the hours. I am proposing we impose a five-day
2 suspension, that we rescind the authority of the
3 alternate floor plan, but we roll back the hours,
4 but that rollback of hours be held in abeyance
5 for six months.

6 ELIZABETH LINT: Just wanted to make
7 sure. Okay.

8 ROBERT HAAS: I second the motion.

9 MICHAEL GARDNER: Do either you or any of
10 the other Commissioners want to talk about any of
11 the reason for this or why you would support the
12 motion?

13 ROBERT HAAS: I think early on we had
14 concerns about the alternative floor plan with
15 prior instances of overcrowding, and we were
16 assured by Mr. Chowdhury that he could
17 effectively manage changing the composition of
18 the restaurant -- we had lengthy hearings back
19 over this whole situation -- only to find, at
20 least during this period of time with the general
21 manager, how difficult it was to manage that
22 alternative floor plan; that in fact, we had
23 situations arise that in my view presented some
24 grave life safety issues.

1 And I think it is prudent, in fact, that
2 we convert it back to him operating a restaurant
3 as initially intended. Clearly, I think the
4 suspension of the license is warranted by the
5 number of incidents we had repeatedly.

6 And I think more importantly, Mr. Chair,
7 the fact that Mr. Chowdhury was aware of prior
8 incidents and didn't take any action to at least
9 mitigate or stop some of the things happening --
10 we had repeat of three or four instances
11 following that; and then finally learning that
12 the general manager who was there -- that was so
13 much terminated over the fact that he wasn't
14 effective running the restaurant, but more so
15 that he was receiving money in addition to his
16 pay, from promoters that were bringing people
17 into that restaurant.

18 So it wasn't clear to me that
19 Mr. Chowdhury was either aware of what was going
20 on or took firm steps to resolve that issue. He
21 made a representation to us that he was busy with
22 the other restaurant down at Central Square, and
23 that is why his time was divided between these
24 two locations, and he couldn't pay as much

1 attention as he would like to to the OM
2 restaurant.

3 Again, I think the repeated number of
4 instances -- fortunately, it didn't rise to the
5 level that we feared -- did take place, and
6 really consumed a great amount of public safety
7 issues in trying to mitigate a situation which
8 was not only destructive to the general operation
9 of the immediate area but the wider spread area
10 of Harvard Square.

11 MICHAEL GARDNER: Thank you for that
12 succinct summary of your view of the problem.

13 ROBERT HAAS: That was succinct?

14 MICHAEL GARDNER: I found it succinct, at
15 least.

16 Now I will just comment. It is my
17 motion. My reason for making it, or my thoughts
18 about the making of it, is in fact, I regard this
19 as a very lenient penalty, given the seriousness
20 of the problems and the apparent intractability
21 or unavailability or unwillingness of
22 Mr. Chowdhury to attend to the deterioration and
23 condition at this restaurant while he put most of
24 his energy into an alternative location.

1 I believe that the rollback of the hours,
2 in fact, is the most effective way to deal with
3 some of the overcrowding problems that we have
4 seen and the disruption in the neighborhood,
5 including the micro neighborhood on the street
6 itself.

7 But we have had the representations from
8 the owners that the rollback in hours would make
9 the viability of the operation much less
10 possible. I am reluctantly prepared to give the
11 management a chance to show that they can, in
12 fact, operate a two o'clock license within the
13 occupancy limits and consistent with the other
14 requirements of the Commission, including those
15 with respect to overserving and crowd control --
16 prepared to give them the benefit of the doubt
17 and the opportunity to reorganize and put the
18 appropriate management controls in place. But I
19 am not prepared to give them, with respect to the
20 hours, more than this one chance.

21 You were here on November the 20th?

22 GERARD MAHONEY: That's correct, sir.

23 MICHAEL GARDNER: So what I will propose
24 is that we have both the Chair and the

1 representative from the police department and
2 representative from the fire department vote on
3 this matter.

4 We will give you a chance to vote as
5 well.

6 Anything you would like to add, having
7 been present.

8 CHRISTOPHER BURKE: No. I concur with
9 the assessments that have already been stated.
10 It is troubling that, based on earlier issues
11 that were raised and heard, that the overcrowding
12 condition could still exist after that. Quite
13 concerning. Also concerning with respect to the
14 potential hazard that the overcrowding created,
15 as stated by Chief Mahoney. Troubling, to say
16 the least.

17 MICHAEL GARDNER: Okay. The motion
18 having been made and seconded, all those in
19 favor, please signify by saying yes.

20 (Voices heard.)

21 MICHAEL GARDNER: And those opposed?

22 (No voices heard.)

23 MICHAEL GARDNER: None.

24 So for the record, Commissioner you are

1 in support of the motion?

2 ROBERT HAAS: I am.

3 MICHAEL GARDNER: For the record, I am in
4 support of the motion.

5 For the record, Assistant Chief Mahoney,
6 you are in support of the motion?

7 GERARD MAHONEY: I am.

8 MICHAEL GARDNER: And for the record,
9 Superintendent Burke, you are in support of the
10 motion?

11 CHRISTOPHER BURKE: Yes, I am.

12 MICHAEL GARDNER: There being no
13 opposition, the motion carries.

14 Now I recall I didn't put in an effective
15 date for the change in the floor plan. I think
16 we have taken out action, but I would ask both
17 Ms. Lint and the Commissioners if they have any
18 thoughts about the level of notice appropriate
19 for the alternate floor plan change to take
20 place.

21 Mr. Hope, would you like to be heard on
22 that matter?

23 MR. SEAN HOPE: Yes, please.

24 MICHAEL GARDNER: Okay. Come forward.

1 MR. SEAN HOPE: Thank you. I will be
2 brief.

3 MICHAEL GARDNER: Again, this is highly
4 unusual in Commission proceedings, but this has
5 been an unusual case.

6 MR. SEAN HOPE: And specifically toward
7 when the implementation of these rollbacks of
8 hours as well as the elimination of the alternate
9 floor plan, which really does change the
10 character of the establishment, I would only ask,
11 since there are prebookings, especially during
12 the holiday season, and they have corporate
13 events, different university events, not just
14 nightclub activities that have already been
15 booked, that if that the alternate floor plan
16 could take place after December 31st, it would
17 allow them to be able to honor the commitments
18 they have already had.

19 I would also state, because of the time
20 for the appeal period, it is likely that the
21 implementation of these would probably -- unless
22 the Commission took other action -- would take
23 place close to the end of December anyway. So I
24 would just respectfully ask that we do that

1 starting January 1st, but allow them to change
2 their branding model and do what they need to do,
3 because this is a very new concept now, as a
4 full-service restaurant, and they will have to
5 make the appropriate accommodations for that.

6 I do also want to say to the Chair, I do
7 appreciate your lenience with the hours. It is
8 something that we did say that was very serious
9 and pushed forward and have some support with
10 that. So as much as we do feel, and I know from
11 the client's point of view, the hours are
12 significant in order to keep consistent with
13 other restaurants on Winthrop Street.

14 But if we could be allowed to keep our
15 alternative floor plan, or even if there was an
16 opportunity to limit that in some way -- if there
17 are certain things that you want to have happen,
18 they will happen. But to just change that in
19 both levels would be very, very damaging
20 financially for the different parties and events
21 that were booked for the holiday season.

22 MICHAEL GARDNER: Thank you.

23 Well, I am not prepared to support the
24 delay of the hours rollback. I think that the

1 six months -- if it is held in abeyance, my
2 belief is that the beginning of the six-month
3 period is now.

4 And that with respect to the five-day
5 suspension, that is always subject to whatever
6 appeals process there may be.

7 I am, I guess, prepared to support the
8 implementation of the alternate floor plan as of
9 January 2, 2013. That is a Wednesday. It should
10 give the establishment opportunity to deal with
11 any advance booking issues they have from beyond
12 that date and make the adjustments with that
13 regard. So I will offer that as a follow-up
14 motion with respect to establishing the effective
15 date for the floor plan change.

16 GERARD MAHONEY: Second the motion.

17 MICHAEL GARDNER: Motion having been made
18 and seconded --

19 ROBERT HAAS: Mr. Chair, just a
20 clarification on the suspension. You are willing
21 to postpone that, too?

22 MICHAEL GARDNER: From my point of view,
23 the suspension -- we voted the suspension. The
24 suspension will take place. People want to file

1 an appeal, they can file an appeal for when that
2 happened. But thank you for clarifying that.

3 ELIZABETH LINT: But it wouldn't take
4 place until after their appeal rights expire?

5 ROBERT HAAS: Right. I get that. I just
6 thought you had talked about the alternative
7 floor plan and the six-month lock. I wasn't
8 clear about the suspension, when that was going
9 to take effect. Okay.

10 MICHAEL GARDNER: I appreciate your
11 succinctly summarizing the problem.

12 The motion having been made and seconded,
13 all those in favor, signify by saying aye.

14 (Voices heard.)

15 MICHAEL GARDNER: Opposed?

16 (No voices heard.)

17 MICHAEL GARDNER: I think it is clear
18 that all of the persons, the Commissioners and
19 the alternate Commissioners who are here today,
20 support this effective date of January 2nd?

21 CHRISTOPHER BURKE: Agreed.

22 GERARD MAHONEY: Agreed.

23 ROBERT HAAS: Agreed.

24 MICHAEL GARDNER: All right. Is there

1 any other business before us?

2 ELIZABETH LINT: There is not.

3 MICHAEL GARDNER: A motion to adjourn is
4 always in order.

5 CHRISTOPHER BURKE: Second that motion.

6 MICHAEL GARDNER: All those in favor,
7 signify by saying aye.

8 (Voices heard.)

9 MICHAEL GARDNER: Unopposed. So we are
10 adjourned at approximately 3:54 p.m.

11 (Whereupon, at 3:54 p.m., the hearing was
12 adjourned.)

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COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

I, Megan M. Castro, a Notary Public in
and for the Commonwealth of Massachusetts, do
hereby certify:

That the hearing that is hereinbefore set
forth is a true record of the testimony given by
all persons involved.

IN WITNESS WHEREOF, I have hereunto set
my hand this 27th day of December, 2012.

Megan M. Castro
Shorthand Reporter

My Commission expires:
August 23, 2013